

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

BABY DOE, *et al.*,

Plaintiffs,

-v.-

JOSHUA MAST, *et al.*,

Defendants,

And

UNITED STATES SECRETARY OF  
STATE ANTONY BLINKEN, *et al.*

Nominal Defendants.

CIVIL NO: 3:22-cv-00049-NKM-JCH

**PLAINTIFFS' RESPONSE TO DEFENDANT RICHARD MAST'S MOTION FOR  
LEAVE TO FILE SUPPLEMENTAL BRIEF TO PROVIDE THE COURT WITH NEW  
EVIDENCE TO SUPPORT MOTION TO VACATE PROTECTIVE ORDER**

Defendant Richard Mast ("RMast") has undertaken yet another unsupportable attack on the Protective Order the Court entered on September 13<sup>th</sup>, 2022 (ECF No. 26). The Protective Order's purpose was and remains simple and straightforward—to protect the Does' identities, their safety, and the safety of family members and innocent non-parties still in Afghanistan. RMast's submission should be refused.

Remarkably, the "new evidence that the protective order . . . should be vacated immediately" to which RMast cites is based on his own communication to the press: it is *an email sent by his counsel* in response to *an email from the Associated Press* ("AP") regarding its intention to publish a "story about the Sept. 5, 2019 raid in Afghanistan that orphaned the little girl." RMast Motion Exh. 1 (ECF No. 272-1) at 1, 4. Why RMast thinks that either the AP's email or his self-serving reply has any evidentiary legs is a mystery.

RMast asserts that his purported “new evidence” refutes “the contrafactual claim that John and Jane Doe’s identity, or that the identity of their family back in the village in Afghanistan, is somehow unknown to the Taliban and their village neighbors.” RMast Motion at 2. In support, RMast points to the fact that “a foreign journalist was able to locate” the village where Baby Doe lived “and speak with villagers” about the attack that led to the death of Baby Doe’s parents. *Id.* at 3. Thus, RMast asks the rhetorical question: “Who in Afghanistan does not know of John and Jane Doe’s story?”

Who indeed? RMast provides no evidence that anyone in Afghanistan – let alone anyone who is a member of the Taliban – knows the identities of John and Jane Doe, that Baby Doe was taken from John and Jane Doe by Defendants Joshua and Stephanie Mast, or that John and Jane Doe and Baby Doe are involved in this lawsuit. Indeed, there is no evidence that any information purportedly known to the AP – a global news agency with resources in both the United States and Afghanistan – should be attributed to anyone in Afghanistan, let alone the Taliban. The AP’s email to RMast’s counsel doesn’t say otherwise. Neither does the self-serving email from RMast’s counsel to the AP. In fact, the AP noted in the article at issue that it “has agreed not to identify the child or the family out of fear of tribal conflict and retaliation from the Taliban, which now rules the country.” See Martha Mendoza et. al, *A baby was found in the rubble of a US raid in Afghanistan. But who exactly was killed and why?*, Associated Press (Aug. 4, 2023), <https://tinyurl.com/2p9rkx6>.

RMast’s motion should be given the minimal attention it deserves and should be denied. For the reasons set forth above, Plaintiffs respectfully ask that the motion be denied.

Dated: August 16, 2023

Respectfully submitted,

/s/ Maya M. Eckstein

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of August, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all CM/ECF participants.

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